

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DONALD L. BOHLKE,

Plaintiff,

vs.

JAMES L. WAGNER, et al.,

Defendants.

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8:04cv506

MEMORANDUM AND ORDER

This matter is before the court on Filing No. 40, the Motion to Amend Original Complaint filed by the plaintiff, Donald L. Bohlke. Judgment has been entered in the above-entitled action, and the complaint may not now be amended. The plaintiff's claims were dismissed because the conditions he described at the Dakota County Jail where he was a pretrial detainee did not amount to a violation of the Eighth Amendment or the Due Process Clause of the United States Constitution. As the court explained, the United States Constitution does not provide a remedy for negligence or even gross negligence. Therefore, when the court entered judgment against the plaintiff, the claims based on federal law were dismissed with prejudice, but the claims based on state law were dismissed without prejudice to their reassertion in an action under state law in a state court. Thus, Filing No. 40 is denied, but the plaintiff remains free to pursue his rights under state law in a state court.

SO ORDERED.

Dated this 24th day of March, 2006.

BY THE COURT:

s/Laurie Smith Camp
United States District Court